

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 9, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

060d-043

Oahu

Grant of Perpetual, Non-Exclusive Easement to Yukio Yonekawa
for Access Purposes, Waianae-Kai, Waianae, Oahu, Tax Map
Key: 8-5-04:36 & 39.

APPLICANT:

Yukio Yonekawa, unmarried, as tenant in severalty, whose mailing
address is 150 Hamakua Drive #364, Kailua, Hawaii 96734.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waianae situated at Pohakai,
Waianae, Oahu, identified by Tax Map Key: 8-5-04:36 & 39, as
shown on the attached map labeled Exhibit A.

AREA:

Easements Q1, Q3 & Q5, to be determined by survey (as shown on
Exhibit "C").

ZONING:

State Land Use District: Agriculture
C & C of Honolulu CZO: Ag 2

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act.

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO x

CURRENT USE STATUS:

Unencumbered and vacant.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis. Kuleana status per the State of Hawaii Abstractor's memo dated February 28, 2006, labeled Exhibit "B".

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 3, Item Nos. d & e that state "...essential public utility services extensions..." and "...driveways...".

DCCA VERIFICATION:

Not applicable. The applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Not applicable.

REMARKS:

Mr. Yukio Yonekawa owns parcel 08 with access from Waianae Valley Road over and across two privately owned parcels (32 and 35), registered under Land Court Application 1102, and two State owned parcels (36 and 39), as shown on Map 2 of Land Court Application 1102, the access alignment being designated thereon as Easements Q1, Q3 and Q5.

The State's records fail to disclose the Territorial or State governments' granting of any access easements, including designated easements Q1, Q3 and Q5, over and across State owned parcels 36 and 39.

When the applicant purchased parcel 08, his escrow company erroneously asserted his legal access over the State-owned parcels, however upon review of his documents, Land Division staff informed the applicant otherwise, and his escrow company rescinded their assertion to say that he did not have legal access over and across the parcels owned by the State of Hawaii.

The applicant's parcel is a kuleana property and entitled to a gratis, perpetual access easement. The route shown on Exhibit "C" is of the existing dirt road, however it is not shown on the City and County tax map. This access easement should also be available to the two other kuleanas. State records show this easement as having been used since at least 1935. Because the other kuleanas have a legal access easement through their properties, staff recognizes that the State easement should align with their easement roads as a practical matter.

Staff recommends granting Mr. Yonekawa an access easement for his personal use over the State's portion of the existing roadway (Q1, Q2 & Q3) plus access rights to the other kuleana owners currently needing this roadway.

The Office of Hawaiian Affairs responded to our request for comments but indicated they had "no comments"; no other agency or community comments were received.

The applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

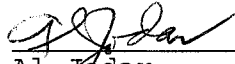
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Yukio Yonekawa covering the subject area for access and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: 8-5-04:08, provided that when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
 - C. Review and approval by the Department of the Attorney General; and

General; and

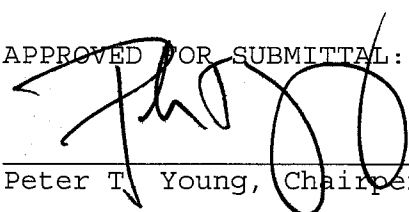
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Al Jodar
Land Agent

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

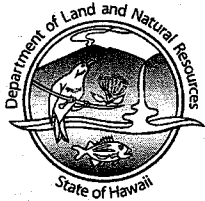
28
Pipeline R/W
Parcel 13

Applicant's

1944

EXHIBIT "A"

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

February 28, 2006

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR


DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER


AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

10229(O)

MEMORANDUM

TO: Al Jodar, Oahu Land Agent

THROUGH: Russell Y. Tsuji, Administrator 

FROM: E. Mahoe Collins, Abstractor 

SUBJECT: Kuleana Status of TMK (1) 8-5-04:08

We have been requested to determine the kuleana status of the original source of title to the subject tax map key parcel (1) 8-5-04:08, identified on the map attached as being all of Land Commission Award No. 3015, situate at Waianae, District of Waianae, Island of Oahu.

Records in our office reveal that said Land Commission Award 3015, dated May 26, 1851, was issued to Makalio, whose name does not appear in the 1848 Mahele Book, indicating that the said awardee did not participate as a konohiki in the Land Division with the king.

By the testimonies of Nawahine and Opunui, said Makalio "received this land from Kaapuiki, in the time of Kekauluohi", prior to 1845.

We find that the subject property, as adjudicated by the Land Commissioners on May 26, 1851, under Land Commission Award 3015 to Makalio, is a kuleana.

If you have any questions, please feel free to call me at 587-0458.

Enclosure

EXHIBIT "B"

